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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 39th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 February 1995, at 3 p.m.

Chairman: Mr. PALLAIS (Nicaragua)
(Vice-Chairman)

CONTENTS

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS
SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS;

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CONTENTS (continued)

- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;
- (c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;
- (d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS (continued)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (continued)

In the absence of Mr. Bin Hitam (Malaysia), Mr. Pallais (Nicaragua),
Vice-Chairman, took the Chair.

The meeting was called to order at 3.15 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;
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- (d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS.

(agenda item 11) (continued) (E/CN.4/1995/5 and Add.1, 42-45, 46 and Add.1, 48, 49, 50 and Add.1-3, 51, 107, 113 and 147; E/CN.4/1995/NGO/5, 8, 22 and 28)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued)
(E/CN.4/1995/85, 87 and Add.1, 88, 89 and Add.1 and 90; E/CN.4/1995/NGO/10;
A/49/635 and Add.1)

1. Ms. de BURLET (Human Rights Watch) said that her organization attached great importance to accountability for human rights abuses, and in particular for war crimes, crimes against humanity and genocide. While welcoming the creation by the United Nations of tribunals to judge crimes committed in the former Yugoslavia and Rwanda, it considered that failure to ensure their smooth working would send the wrong message to war criminals throughout the world and, by signalling that strong words were not followed by deeds, would undermine the authority of the United Nations.
2. In Rwanda, there was a considerable danger of the genocide resuming under the old leadership. United Nations plans to disarm the Rwandese controlling the camps and to separate military and militia forces from the refugee population and bring them to justice had been thwarted by a refusal of Governments to commit the necessary resources. Prompt prosecution of those responsible for the genocide was essential. The Commission should take the lead in urging all Member States to support the work of the appropriate International Tribunal and to arrest, and hold for trial, all those former Rwandese military and civilian officials and others against whom a prima facie case of involvement in genocide could be made.
3. Despite the continuing human rights abuses in the former Yugoslavia, international negotiators had been more interested in accommodating than in punishing the Serb forces. The proposed peace plan drafted by the Contact Group did not properly address human rights abuses in any of the territories controlled by the respective factions. The failure of international

negotiators to press Bosnian Serb forces to stop their policy of ethnic cleansing was a de facto acceptance of genocide and a recipe for further suffering. Until the persons responsible for such crimes were brought to justice, the Bosnian Serb leadership must be held accountable by the international community. Amnesties should not be granted to alleged war criminals in exchange for their acceptance of a peace plan. Sanctions against any State that refused to cooperate with the appropriate International Tribunal should be maintained.

4. She urged the Commission to strengthen logistical and professional support for the mandates of the United Nations special rapporteurs, working groups and independent experts. Her organization was concerned that the voice of the High Commissioner for Human Rights had rarely been heard on the most pressing human rights problems of the past year, and she encouraged him to adopt a more forceful and public profile and to support the investigative work of the United Nations special rapporteurs, in particular by bringing pressure to bear when they were not allowed to undertake visits to countries to which the High Commissioner had himself been invited.

5. Ms. FARHI (International Council of Jewish Women), speaking also on behalf of 21 other non-governmental organizations (NGOs)*, said that, while Governments increasingly recognized the irreplaceable role of the NGOs in advancing United Nations human rights work, the NGOs were always the first targeted in discussions on rationalizing or reforming the methods of work of the Commission or of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Certain members of the Commission and the Sub-Commission had proposed that NGOs should present joint statements on human rights violations and had suggested even more radical measures. Yet the informal open-ended working group on the organization of the work of the Commission had established that the number of statements by NGOs in the Commission had fallen to 269 at the fiftieth session from 293 at the forty-ninth (E/CN.4/WG.12/2).

6. The NGOs were not the only ones who could be accused of repetitiveness. Wherever possible, they had made a serious effort to present joint statements, but that was not always possible. For example, some representatives of NGOs did not arrive in Geneva until the day on which a given subject was discussed. They had been sent to make a statement based on their own experience and field work, their text having received the prior approval of their members. It was difficult to see how it could be argued that they should no longer give their own unique testimony.

7. An NGO spoke on behalf of a coalition of its members in various parts of the world, sometimes representing millions of individuals from different cultures. Their statements resulted from careful studies and thorough discussions and could hardly be called frivolous or arbitrary.

8. The NGOs understood the organizational difficulties facing the Commission and were prepared to participate in any effort to rationalize its work and its

* The list of non-governmental organizations concerned appears as an annex to this summary record.

agenda. She reminded the Commission, however, of the major role played by NGOs in the drafting of a number of international human rights instruments and the vital importance of the information that they provided on human rights violations, which might otherwise go unnoticed.

9. If the United Nations was truly to become a universal, pluralist and democratic institution, it should not restrict the activities of the NGOs, whose work was difficult enough as it was. To take the simple example of the arrangements for their presence in the Commission's conference hall, at the current session 150 NGOs had to make do with 12 seats and could deliver their statements from only three of them.

10. Ms. GARCIA (Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM)) said she regretted that, two years after the establishment of the Commission on the Truth in El Salvador, some of its recommendations had yet to be implemented; that the former President Cristiani had declared an amnesty one week after the publication of the report of the Commission; and that a number of provisions of the Peace Agreements had not yet been put into effect.

11. The recent integration into the National Civil Police (PNC) of demobilized servicemen, together with the imminent withdrawal of the United Nations Observer Mission in El Salvador (ONUSAL), gave cause for serious concern about El Salvador's immediate future. It was imperative that ONUSAL should continue its work. Her organization thus urged the Commission to continue monitoring the situation of human rights in El Salvador and to adopt the recommendations contained in the report of the Independent Expert (E/CN.4/1995/88, paras. 92-122).

12. In Guatemala, members of the police and the military were still committing human rights violations, as illustrated by the armed attack on Senaida Cana Chonay, a member of the Mutual Support Group (GAM) on 6 February 1995 and the threats of which she and her family had been the target, the murder of the Belgian priest Alfonso Stelsen in December 1994 and the murder of the Guatemalan reporter Alberto Antoniotti in January 1995. Unfortunately, it had not been possible in practice to dismantle the military control apparatus.

13. As long as the judiciary in Guatemala was not independent and could not ensure protection of human rights, there could be no administration of justice, and those responsible for human rights violations would continue to go unpunished. The intimidation and harassment to which judges were exposed who tried cases involving members of the military, the police or the Civilian Self-Defence Patrols (PACs) showed the military's continuing powerful presence. Virtually all cases of disappearances, torture and arbitrary executions continued to go unpunished.

14. Her organization regarded as a positive step the signing of the Comprehensive Agreement on Human Rights and welcomed the establishment of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA). It urged the Commission to ensure that the Government of Guatemala produced tangible results in safeguarding basic human rights and to call upon the Government of Guatemala to honour the promise it had made to the Working Group

on Enforced or Involuntary Disappearances by including enforced disappearance in the country's constitution and legislation as a crime against humanity.

15. Mr. CUNNIAH (International Confederation of Free Trade Unions (ICFTU)) said that his organization was deeply concerned at the increasing level of violence against women at home, at work and in the community. It was especially worried by certain forms of violence against women workers, such as sexual harassment, intimidation at work and the violence directed at women migrant workers.

16. Women were at risk in many sectors of the economy and were often the victims of aggression and physical and verbal abuse. In low-paying and low-status jobs, they were particularly vulnerable to violence at work, including sexual harassment. For example, in the cleaning sector, women were exposed to abuse or harassment by both supervisors and clients. In the developing countries, women generally found employment in small enterprises, sweat-shops or home-based units, where a country's labour legislation did not apply or was difficult to enforce, and were easy targets for exploitation and abuse.

17. The domestic service sector had the worst working conditions of all. There had been many cases of discrimination against domestic servants - who were usually young women - and cases of sexual abuse by employers or their sons.

18. Women migrant workers were particularly at risk. Many went through private recruitment agencies to find employment abroad and, in the process, were exploited by unscrupulous agents demanding exorbitant fees. Once abroad, they were frequently forced to live and work in terrible conditions. Some of the worst experiences had been repeatedly reported in the Middle East, where women had fled to their embassies to seek protection from their employers.

19. It was high time that Governments realized the seriousness of those problems and took appropriate action by enacting legislation on sexual harassment, domestic violence and sexual violence. They must also review how women victims were treated by the police and the judiciary, and take steps to improve the collection of data on violence against women. Employers were equally responsible for protecting their employees from violence and sexual harassment. Proper procedures must be established for the reporting of incidents at work similar to those in respect of health and safety matters and accidents. Companies must have an anti-harassment policy committing the management to maintaining a harassment-free workplace.

20. In many countries, women were caught in a web of social humiliation: discrimination, economic dependence, family insecurity, repression, insults and sexual abuse. Such was the situation of women in the Islamic Republic of Iran.

21. His organization supported the conclusions and recommendations contained in the preliminary report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1995/42), particularly the call for all Governments that had not yet done so to ratify, without reservations, the

Convention on the Elimination of All Forms of Discrimination Against Women. The Commission should also urge Governments to ratify ILO Conventions No. 111 on discrimination and No. 100 on equal remuneration.

22. Mr. CIURLIZZA (Andean Commission of Jurists) said that advisory services and technical assistance were intended to help Governments strengthen national institutions and bring them into line with international human rights standards. Nevertheless, in some cases, Governments had misused those services as a means of avoiding international monitoring and no real progress had been achieved. The system of advisory services thus needed to be thoroughly reviewed.

23. Colombia had been benefiting from UNDP advisory services since 1988. In 1993, the Secretary-General had reported that those programmes had been oriented towards the promotion rather than the protection of human rights and it had been recommended by various United Nations mechanisms that the Government of Colombia should take firm measures to deal with public officials accused of serious violations of human rights and should provide better protection for individuals and organizations working in the human rights field.

24. The advisory services provided to Colombia had not had any real impact in terms of decreasing violence and human rights violations. Any further services must take into consideration the progress made in complying with the various recommendations.

25. The Government of Peru had requested assistance from the Centre for Human Rights for a programme which would include training public officials in report and document preparation and strengthening the institutional bases for democracy and the rule of law. Priority would be given to reinforcing the three main elements needed to provide better protection for human rights: the judiciary, monitoring bodies and the combat against corruption. Another goal was to set up a broad and democratic programme of human rights training for members of the army and the national police. Non-governmental organizations would be playing an active role in the entire programme.

26. Bolivia had requested support for the elaboration of a national plan of action for the promotion and protection of human rights, which would include the participation of non-governmental organizations, while Ecuador had been carrying out a pilot project to provide human rights training for military personnel.

27. In that connection, his organization suggested that, in view of the shared characteristics of the Andean countries, programmes and projects developed for them by the Centre for Human Rights should have a regional focus and should emphasize the exchange of experience. All programmes should be elaborated with a view towards achieving the overriding goal of the effective promotion and protection of human rights.

28. A critical evaluation of advisory services in the field of human rights should be based on three main questions, namely, whether the provision of advisory services meant that a country was no longer subject to international

monitoring, what special contribution the advisory services would make to the improvement of human rights and to what extent the Government consent requirement was limiting the programmes.

29. In principle, the existence of advisory services should not serve as a replacement for international control, particularly by special rapporteurs and working groups. Nevertheless, some Governments had sought to substitute the first for the second. The Commission on Human Rights had even reinforced that distorted image by exempting countries using the advisory services from examination under certain of its agenda items.

30. Although, in theory, technical assistance should always lead to a greater respect for human rights, yet, without an appropriate ideological and ethical framework, such assistance might end up by legitimizing situations which did not advance that cause. It was thus necessary to monitor continuously the impact of technical assistance on any given situation.

31. The role of the Centre for Human Rights could be substantially strengthened by increased cooperation with NGOs, whose work could appropriately complement advisory services and technical assistance programmes. At the same time, the required consent of States might stand in the way of such cooperation. It must be made clear, therefore, that NGOs were not acting in opposition to Governments but as an auxiliary to them.

32. The Commission on Human Rights had reiterated on numerous occasions that advisory services were designed to facilitate the implementation of international standards for the protection of human rights. Some Governments had failed to avail themselves of those services fearing, perhaps, that to do so would open the way to interference in their internal affairs. However that might be, the scarce resources available for all advisory services and technical assistance programmes must be used in the most effective manner possible.

33. Ms. SUK (Liberation) said that, during the period of Japanese colonial rule in Korea, Koreans had been forcibly displaced and subjected to long-term detainment, sexual exploitation and other forms of slavery, brutal actions that unquestionably constituted crimes against humanity. The Japanese Government had finally acknowledged its actions, but had never taken steps to investigate the issue further. It had ignored its moral responsibility, despite reminders from international and other organizations.

34. The Japanese Government lacked a sense of guilt with respect to the invasions carried out by Japan in the past. Moreover, it maintained that the sexual slavery, forced labour and forced displacement that had taken place under colonial rule had been lawful because of the protectorate treaty signed in 1905 between Japan and Korea. However, the Korean emperor and his ministers had signed the treaty under duress, and many eminent jurists had declared the treaty to be null and void for that reason.

35. The surviving victims of colonial rule and forced labour and their families were still victims of discrimination in Japan. The right to education of Korean nationals in Japan had still not been confirmed. Korean children had been assaulted by Japanese citizens.

36. Her organization requested the Commission on Human Rights, therefore, to authorize the Special Rapporteur on violence against women to conduct an immediate investigation both in Japan and in all the victimized countries. It urged the Special Rapporteur to extend her investigation to the origin and causes of human rights abuses and to make constructive policy recommendations.

37. The Japanese Government had announced that the issue of "comfort women" had been resolved in accordance with bilateral and multilateral treaties. That was not, in fact, so, because there was no treaty normalizing the relations between Japan and the Democratic People's Republic of Korea.

38. Mr. TOTSUKA (International Fellowship of Reconciliation) said that his organization, which had been working closely with the Japanese Fellowship of Reconciliation and the Foundation of Japanese Honorary Debts, had on several previous occasions drawn the attention of the Commission to the issue of sexual enslavement perpetrated by the Japanese Imperial Forces during the Second World War. In that connection, it welcomed the preliminary report of the Special Rapporteur on violence against women (E/CN.4/1995/42) and in particular the section dealing with the issue of "comfort women".

39. The Prime Minister of Japan had apologized to the victims of sexual slavery but the question of compensation had still to be resolved and the act had still to be recognized as a crime under international humanitarian law.

40. A precedent for the punishment of perpetrators of the crime of military sexual slavery had been set by a Dutch war crimes tribunal in 1948. Perpetrators of similar crimes in Japan were, however, benefiting from de facto impunity. There were also legal precedents relating to the duty of reparation to victims on the grounds of non-punishment.

41. Despite the protests from surviving victims and other groups in Korea, the Philippines and Japan, the Japanese Government had launched in September 1994 the Murayama Plan under which a Government-funded foundation would be established to set up development assistance projects. Any donations by the general public to the fund would then be used to compensate the victims of sexual slavery. According to the Japanese Foreign Ministry, no compensation should be paid directly to those victims by the Government as to do so would imply an admission of legal responsibility.

42. Thus, the Japanese Government still did not admit that its treatment of the "comfort women" constituted a crime under international law. It had failed to respond to the legal arguments of non-governmental organizations, stating openly that the views of such organizations did not merit serious consideration.

43. Apart from those who had collaborated with the Japanese Imperial Forces in the matter of "comfort women", Japanese nationals had no moral or financial responsibility for those crimes. They were, however morally and politically responsible for allowing their Government to neglect its responsibilities in that matter.

44. In January 1995, the Government of Japan had formally rejected the victims's demands for international arbitration, as recommended by the

Working Group on Contemporary Forms of Slavery. It was most regrettable that the Government had refused an opportunity to resolve the matter in a reasonable, fair and expeditious manner.

45. The Korean Bar Association and the Japan Federation of Bar Associations had recently adopted the following opinions: the crimes committed by Japan were in violation of international law; it was the duty of Japan to punish the perpetrators of those crimes; and Japan had an obligation to provide reparation to the victims.

46. He urged the Commission to request the Special Rapporteur on violence against women to visit Japan and prepare a report on the matter of "comfort women". In examining that issue, the Special Rapporteur should collaborate with the rapporteurs, experts and working groups in related fields.

47. Ms. SHIN (Commission of the Churches on International Affairs of the World Council of Churches) said that she welcomed the preliminary report of the Special Rapporteur on violence against women (E/CN.4/1995/42). Her organization had been concerned for some time about the issue of violence against women, particularly in times of war. An ecumenical fact-finding team had undertaken an investigation of violence against women in Bosnia, on the basis of which her organization had supported the establishment of an international tribunal to deal with the question of human rights violations in the former Yugoslavia.

48. The Vienna Declaration and Programme of Action defined violations of human rights of women in situations of armed conflict as violations of the fundamental principles of international human rights and humanitarian law and called for effective responses to such situations. The Jakarta Declaration and Programme of Action for Asia and the Pacific, adopted in June 1994, called upon Governments to punish the perpetrators of military sexual slavery.

49. Her organization had appealed for full disclosure of the facts regarding the matter of "comfort women"; those guilty must be brought to justice and the victims must receive just and adequate compensation. Women around the world, and particularly in Asia, were demanding justice and reparations for the victims of military sexual slavery. At the East Asian Women's Forum, held in October 1994 in Japan, the participants had launched a campaign against Japan's application to become a permanent member of the Security Council, arguing that until it had fulfilled its legal obligations to war victims in Asia, it could not claim international political leadership.

50. Modified versions of the system of military sexual slavery were still in existence in many parts of the world and included the economic exploitation of women in the sex tourism industry and trafficking in women. If the issue of "comfort women" had been properly resolved under international law, the massive and organized rapes against women currently being perpetrated or condoned by various States might have been avoided.

51. Resolution of the matter of "comfort women" would take on great symbolic meaning in 1995, the fiftieth anniversary of the end of the Second World War and of the establishment of the United Nations. Surviving "comfort women" and organizations working on the issue of military sexual slavery, including her

own, were strongly opposed to the Murayama Plan proposed by the Government of Japan: the civilian fund to compensate victims would serve only to deny the responsibility of the State. In that connection, she mentioned that the International Commission of Jurists had recommended that an international forum should be set up and an interim payment of US\$ 40,000 should be paid to each victim until the matter was fully resolved.

52. Mr. NEWMAN (Human Rights Advocates) said that the basic question to be addressed was how gross violations of human rights, which occurred often and in many countries, could be handled under the Commission's thematic approach.

53. Many groups of displaced persons were being overlooked or forgotten by the public and the media because they were small in numbers or the displacement had occurred too far in the past to be topical. International efforts with regard to displaced people should be focused on protection rather than on mere assistance and should concentrate on violations of existing law rather than on the failure to observe principles.

54. The situation of the Kashmiri Hindus was a case in point. The Government of India might justify its failure to protect that group on the grounds of the requirements of public order and the general welfare, as provided for under article 29 of the Universal Declaration of Human Rights, but India had long been a party to the International Covenant on Civil and Political Rights and article 7 of the Covenant, from which no derogation was permitted for any reason whatsoever, provided that no one should be subjected to cruel, inhuman or degrading treatment. Under articles 23 and 24, the family was entitled to protection by the State and children were entitled to protection as required by their status as minors. Those protections surely included sanitation, shelter, food and educational opportunities. While derogation from the provisions of articles 23 and 24 was permitted in times of public emergency, it was difficult to imagine that such a rationale could be used by States to justify the ill-treatment of internally displaced persons.

55. The Representative of the Secretary-General on internally displaced persons had recently suggested that a newly elaborated body of principles might help fill legal gaps and restate obligations within the framework of existing norms. Such work must not, however, provide an excuse for Governments to ignore their obligations under existing laws. Unfortunately, in dealing with people in many vulnerable groups, Governments had agreed to palliatives which had critically minimized the objectives contained in the various international treaties.

56. Mr. TEITELBAUM (American Association of Jurists) said that the unsatisfactory results achieved by the United Nations in its human rights activities were due to the fact that the geopolitical and geo-economic interests of the major Powers had prevailed over the standards and principles enshrined in the basic international human rights instruments.

57. Reviewing a number of recent critical situations, he noted that, in Somalia, the Special Representative of the Secretary-General, who had been achieving results through dialogue, had been dismissed and the military option

pursued with the results that were known, including grave violations of the human rights of the Somali people committed under the flag of the United Nations.

58. In Haiti, the United Nations and the United States had put intense pressure on President Aristide, while guaranteeing impunity and a comfortable exile for those responsible for the martyrdom of the Haitian people.

59. In Rwanda, there was still no explanation for the passivity of the blue helmets during the early stages of the massacre or for the order to the Belgian blue helmets - who had been subsequently massacred - to give up their weapons. It was also difficult to understand why almost the entire contingent of blue helmets had been withdrawn when their presence might have prevented the assassination of the Prime Minister, the Chief Justice of the Supreme Court and other national figures.

60. Members of the former genocidal Rwandese regime were currently in the refugee camps in neighbouring countries plotting their counter-offensive to the general indifference of the international community. In the meantime, the United Nations was providing no assistance in creating the judicial structures required to bring to trial the thousands of accused persons who were imprisoned inside Rwanda in deplorable conditions. The international criminal tribunals which the Security Council had established for Rwanda and the former Yugoslavia were of doubtful legitimacy, since they were ad hoc and temporary and were answerable to the Security Council. That situation lent credence to the view that technical and financial assistance was provided for the administration of justice in a selective and discriminatory manner.

61. A former senior official of the United Nations Mission for the Referendum in Western Sahara (MINURSO) had recently charged that the United Nations, which was responsible for monitoring the proper conduct of the referendum in Western Sahara, was a mere smoke-screen for the fraud being perpetrated by the Kingdom of Morocco. Meanwhile, in Angola, the United Nations was incapable of obliging UNITA to respect the results of the elections in that country and, in Chechnya, the proponents of the right of interference remained silent or claimed that it was an internal problem of the Russian Federation, while the Chechen people and their capital were being brutally destroyed.

62. To complete the picture, the Secretary-General had recently called for the incorporation into the United Nations system of the transnational corporations, in other words, for the international community to be governed not by the Universal Declaration of Human Rights, but by the principle of maximizing the profits of the large international monopolies.

63. The destruction of the United Nations system as an instrument for the promotion of coexistence, dialogue and human rights was being carried out in various ways. On 15 February 1995, \$1,300 million in contributions to the regular budget of the Organization and \$2,100 million for peace-keeping operations were outstanding. Moreover, contrary to the provision of the Charter that the assessed contribution of each country should be determined by the General Assembly and not by that country's parliament, the House of Representatives of the United States had recently passed legislation reducing that country's contribution to the United Nations.

64. The lack of resources could be seen in the Commission itself, where certain documents were not translated at all or were translated very late because fewer and fewer staff were being recruited. At the same time, more and more persons paid for by individual States and not by the United Nations were joining the staff of the Centre for Human Rights, in violation of the principle of independence of the staff of the Organization.

65. The system had thus lost all credibility to the point where the international community risked returning to the law of the jungle. His organization believed, however, that the failure of the United Nations was in fact the failure of the handful of major Powers that ran it. It was, therefore, high time that the international community once again took charge of the conduct of international affairs through a genuine process of democratization of the Organization.

66. In order to achieve that objective, a number of measures must be taken: publication in the press of the Organization's budget and a list of debtor countries; assigning concrete and precise objectives to the activities of the United Nations; reform of the Commission's working methods as proposed in document E/CN.4/1994/NGO/3; reaffirming the role of the World Bank and the International Monetary Fund (IMF) as specialized agencies and making them answerable to the Economic and Social Council and the General Assembly; ensuring that the office of the Secretary-General was impartial and more representative of the Organization's membership by making it collegial and not individual; increasing the size of the Security Council with equitable regional representation and abolition of the veto; inclusion of representatives of civil society as members of the delegations of States, without the right to vote; and maintaining the prerogatives of NGOs in United Nations bodies and rejecting the Secretary-General's proposal to place restrictions on them.

67. The choice before the international community was clear. Either it drifted towards a human society totally dominated by the implacable laws of the market or it restored civilized coexistence based on democracy, law and justice.

68. Given the unjustifiable omission of a specific agenda item on women's rights, he had only two comments to make on the report of the Special Rapporteur on violence against women. First, the documentary sources on which the report was based were almost exclusively in English, thereby depriving the Special Rapporteur of significant publications in other languages and of access to the legislative texts of some regions. Secondly, the report should have paid greater attention to the economic aspects of violence against women, such as the consequences of structural adjustment, extreme poverty, unemployment, declining social expenditure and the undervaluation of the work done by women in the home.

69. Mr. van WULFFTEN PALTHE (Netherlands) said that the preliminary report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1995/42) would increase the public support and the legal and social basis for action against that worldwide phenomenon. The report distinguished between private, community and State-condoned violence against women and

States were called upon to refrain from such violence themselves and to show due diligence in investigating and prosecuting its perpetrators at the private and community level.

70. The eradication of violence against women was an important aspect, but still only one aspect, of the struggle for women's human rights. One of the most useful instruments to combat discriminatory practices had to date been the Convention on the Elimination of All Forms of Discrimination against Women. The impact of that Convention and of its monitoring body, the Committee on the Elimination of Discrimination against Women, could be further increased, however, by the universal ratification of the Convention. Governments should also limit the number of reservations and withdraw those which were incompatible with the object and purpose of the Convention.

71. The effectiveness of the Convention could also be enhanced by the introduction of the individual right to complaint, as was the case with several other international human rights treaties. In that connection, his Government supported the elaboration of a draft protocol providing for an inquiry procedure and the right of individuals and groups to submit complaints. For its part, the Committee's functioning could be improved by a more generous allocation of meeting time. Moreover, its relocation to Geneva would link it up to most of the other human rights treaty-monitoring bodies and thereby help to promote the human rights of women within the wider system.

72. One of the conclusions of the World Conference on Human Rights was that priority should be given to the integration of women's rights into the mainstream of the United Nations system. Practical measures to achieve that objective should cover the areas of reporting methodology, gender-impact analysis, training and public relations. Enhanced coordination and planning and the mobilization of resources and expertise were also required. On the issue of documentation and information, both Governments and United Nations expert bodies should provide more gender-disaggregated data.

73. The Fourth World Conference on Women, to be held in Beijing later in 1995, would take stock of the current situation of women's human rights, two years after the Vienna Declaration and Programme of Action. The World Conference should take into account the implications for women of the 1994 International Conference on Population and Development, which had established a dialogue on a number of issues that directly affected the lives of women around the world. The Beijing Conference should also take account of the conclusions of the forthcoming World Summit for Social Development, which would focus on such equally important issues as the soaring unemployment among women, the feminization of poverty and the marginalization of women in society.

74. Mr. BOUCHET (France) said that human rights were the last protective rampart of human dignity. National institutions that mobilized ordinary citizens had an important role to play in the promotion and protection of those rights. Unfortunately, few such institutions had been established in the past year and few of the existing ones had benefited from technical assistance. Nevertheless, more and more countries were beginning to show an interest in national institutions, which constituted a link between the State and civil society. Many national institutions had displayed great courage and

perseverance in the face of difficulties. He wished to pay tribute, in particular, to the President of the National Human Rights Commission of the Russian Federation for his principled position on the bloody conflict in Chechnya.

75. For its part, the French Human Rights Commission had organized in November 1994 the first regional meeting of national institutions from Western, Central and Eastern Europe. The meeting had adopted a resolution affirming the intention of the 17 national institutions represented to maintain closer contact with each other, to encourage the establishment and development of new national institutions in Europe, and to guarantee their internal pluralism and independence. The theme of the meeting had been "The struggle against racism and xenophobia: priorities and methods for harmonizing action in Europe".

76. The French Commission would shortly issue its sixth annual report on the struggle against racism and xenophobia. The report contained an in-depth analysis of the situation in France based on statistics of racial incidents and the number of cases prosecuted, the reports of grass-roots associations, and the results of an opinion poll which confirmed the danger that racism might become commonplace.

77. In keeping with its legal mandate, whereby it was competent to give opinions on all national and international human rights matters, the French Commission had considered numerous human rights issues during the previous year. In particular, it had prepared an opinion on the ethics of information and communication. In its view, freedom of the press and respect for the rights of individuals could not be reconciled in contemporary society without a new legal and ethical concept of press responsibility. The "gutter press" should no longer be allowed to dishonour a profession so highly honoured by those who risked their lives to carry out their vital mission.

78. In the area of the protection of the rights of the child, the French Commission was monitoring the implementation in France of the Convention on the Rights of the Child. It was also seeking clarification of the status of unaccompanied minors who were accepted into France within the framework of Government humanitarian operations.

79. In the area of computerized databases containing personal information on individuals, the French Commission had expressed concern over a draft European directive which did not provide adequate safeguards against the marketing of such data. It had just learnt with satisfaction that those deficiencies had been remedied.

80. The French Commission also welcomed the adoption by the French Parliament of legislation in the sensitive field of bioethics, which was aimed at ensuring respect for the rights of individuals and, more generally, for the genetic heritage of mankind.

81. Lastly, the French Commission welcomed the issue of the first arrest warrants in connection with crimes committed in the territory of the former Yugoslavia. It hoped that that development marked the first step towards the creation of an international criminal court.

82. Despite its shortcomings, the French Human Rights Commission had a useful role in disseminating information about the facts of human rights situations and in reminding the various authorities and society as a whole of the primary importance of respect for human rights in all circumstances. He hoped that national human rights institutions would be allowed to play their proper role in the work of the Commission on Human Rights and in all United Nations human rights bodies.

83. Mr. TORELLA di ROMAGNANO (Italy) said that he wished to address two separate issues under sub-item (a): the implications of the universality of fundamental rights and freedoms, and public information activities.

84. Like many other delegations, his own believed that United Nations action to improve the effective enjoyment of human rights and fundamental freedoms should take account of a number of other priorities as well as the right to development, which was taking on increasing importance. In exploring alternative approaches for achieving that goal, the Commission should ensure that a proper balance existed between the aims of advancing towards new frontiers and consolidating pre-existing human rights. It was difficult to implement third- and fourth-generation human rights without a general acceptance of fundamental rights. The difficulty encountered in implementing the right to development was just one example of the soundness of that argument.

85. Despite the widely shared conviction that all human rights and fundamental freedoms were indivisible, interdependent and interrelated, it was also true that fundamental human rights and freedoms had a special place in the vast arena of human rights. It was therefore necessary to give appropriate attention to those "traditional" human rights, with the aim of ensuring their effective enjoyment.

86. In the search for alternative ways and means of improving the effective enjoyment of human rights and fundamental freedoms, there were two important obstacles to be overcome. First, the numerous binding international instruments relating to different aspects of human rights were binding only on those States which had ratified them. Moreover, while rules concerning the most essential human rights had become rules of customary international law, the principle that all human rights and fundamental freedoms were indivisible, interdependent and interrelated did not leave room for States to distinguish between those fundamental rights and freedoms which they had accepted by ratifying an international instrument and those which they had not accepted.

87. At the same time, there was the constant and undisputed affirmation that States were obliged under the Charter to promote universal respect for and observance of human rights and fundamental freedoms, without discrimination of any kind. It was thus of paramount importance to single out those human rights and freedoms that were considered fundamental and, as such, universal. That problem could be dealt with in various ways: it might, for instance, be appropriate to entrust it to an ad hoc working group or other body. The exercise was not a merely formalistic or technical one, but was meant to create certainty in the field of internationally protected human rights.

88. If that aspect of United Nations legislation was clarified, States would no longer be able to plead the fact that they had not ratified a certain convention to avoid respecting a fundamental, and therefore universal, human right. That did not mean, of course, that the campaign to induce States to ratify or accede to international instruments should be abandoned; for that was the only way to ensure that States were obliged to respect and comply with all the rules that were corollary or had procedural value, such as those concerning periodic reporting or communications from individuals. The drafting of a code of universal rights of individuals was not merely a technical requirement: once the principle of the universality of fundamental human rights had been consolidated, it would be easier to achieve progress in implementing all other human rights.

89. His delegation was convinced that the primary responsibility for ensuring that all human beings could actually enjoy their internationally recognized rights lay with States, which must bring their domestic legislation into line with international standards and provide effective means of redress for violations. In that connection, it was necessary to provide individuals with an international forum, of a judicial or quasi-judicial nature, that could rule on complaints by individuals claiming to be victims of violations by a State of a right set forth in the international instruments.

90. The ultimate goal was the establishment of a world court for human rights. However, any suggestions whose main thrust was that a dispute between a State and an individual concerning human rights should be brought to the judgement of some independent body deserved consideration.

91. Turning to the question of public information activities, he said that there was clear evidence of the enormous importance of such activities for the purposes set out in Article 1, paragraph 3, of the Charter. As was reaffirmed in the Vienna Declaration and Programme of Action, effective and broad dissemination of human rights information was essential to the promotion and protection of those rights and freedoms. The launching of the United Nations Decade for Human Rights Education further confirmed the importance of enhancing national and international efforts in that regard.

92. While his delegation was encouraged by some of the results of the review of its information programme that the Centre for Human Rights had undertaken, it urged the Centre to complete that review as soon as possible, taking particular account of the need to rationalize its publication and information programme. His delegation continued to attach the utmost importance to effective coordination between the Centre and other United Nations bodies and international organizations in the enhancement of human rights information activities. The High Commissioner for Human Rights also had an important role to play in coordinating and harmonizing public information programmes within the system so as to make the best use of the scarce resources available which were in no way commensurate with the demands of Member States and the international community and which must be increased.

93. Mr. YALDEN (Canada) said that, as Head of the Canadian Human Rights Commission, he was also speaking on behalf of the Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. That Committee had been established at the 1993 Tunis Workshop on National

Institutions and represented a worldwide network of human rights agencies whose aim was to promote the creation and strengthening of national human rights machinery.

94. A key component of the United Nations' work was to ensure not only that its own machinery was effective but also that its Member States had the infrastructure needed to translate their commitment to human rights into effective action on the ground. The two goals were mutually reinforcing: the United Nations human rights machinery could not but be enhanced by support at the grass-roots and institutional levels, while an effective national human rights infrastructure could cope with human rights problems before they reached crisis proportions requiring United Nations attention.

95. The active role that national institutions for the promotion and protection of human rights had begun to play in the United Nations system was recognized in Commission resolution 1994/54, and it was to be hoped that the Commission could move that process forward, by more clearly defining the status of those institutions within the United Nations system. Still more important, perhaps, was the need for more coordinated action to assist the creation and strengthening of human rights infrastructures in Member States. In the short term, Member States must make a concerted effort to increase their contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights. In the medium term, the Centre for Human Rights should receive increased funding from the regular budget for that purpose. Furthermore, national institutions provided a reservoir of expertise that should be systematically tapped in developing and delivering programmes.

96. As for the longer term, the ideal would be the establishment of a comprehensive system of national human rights institutions, with reference to the principles adopted by the Commission and the General Assembly since 1991. That would be a means of effectively implementing Member States' international commitments at the national level. The relationship between such a system and the Centre for Human Rights and the Commission would be mutually supportive, providing institutions with a forum in which to exchange ideas and information, and encouraging coordinated action.

97. For any of those things to happen, however, the United Nations must make a firm financial and moral commitment, recognizing the key role that national human rights institutions could play in a global context.

98. Mr. STROHAL (Austria) said that the country profiles in the report of the Representative of the Secretary-General on internally displaced persons (E/CN.4/1995/50, paras. 20-45) were highly commendable, particularly in view of the extremely scant Secretariat resources available to him, and constituted a first step towards providing the international community with a phenomenology of displacement. The Representative also addressed a specific characteristic of that phenomenon, which was assuming monumental proportions, by insisting on the close links between human rights and the humanitarian issues involved. In October 1994, the Government of Austria had organized a legal round table for the Representative, at which a number of international experts had presented him with an analysis of the specific needs involved, of

the foundations in international law, and of existing rules and norms relating to internal displacement. It was prepared to continue its support for those efforts, with a view to achieving the necessary synthesis in that area.

99. The Representative had played a catalytic role in discerning the scope and complexity of the problem of displacement, a role that had led to the increased recognition of the dimensions of the problem by the international community, as expressed in a number of international and regional declarations. Further, closer and systematic involvement by the Representative, particularly in cooperative and coordinating efforts within the system, should be beneficial to the international community in its task of finding adequate and timely responses. That involvement was particularly necessary where internal or external conflict was a cause of displacement, for the Representative had an important potential role to play in enhancing international conflict resolution and mitigation efforts, and in strengthening the preventive capacities of the international system in that regard.

100. The Representative had also presented the Commission with the outline of a comprehensive global strategy (paras. 266-269) to protect and assist the internally displaced. His achievements thus far included entering into a global dialogue on the basis of a review of the existing framework and situation; encouraging and promoting national, regional and international capacities for the internally displaced; and mobilizing international action. In so doing, he had shown a commitment commensurate with the challenge posed by the displaced, a commitment that must be matched by the international community.

101. Ms. GAER (United States of America), said that for too long the Commission had all but ignored rampant and systematic abuses of the human rights of women, choosing to regard the most horrendous violations of their rights as "domestic difficulties", "customary practices", common crimes, or as private or internal matters. Her Government and people were thus gratified to note that, over the past two years, that situation had begun to change, and that the United Nations had begun to recognize women's rights for what they were: universal, indivisible, interrelated and interdependent human rights.

102. The process had started in Vienna in 1993, when almost half a million women had signed petitions to the World Conference on Human Rights, and had been reflected at the previous session of the Commission, when a Special Rapporteur on violence against women had been appointed. The Fourth World Conference on Women, to be held in Beijing in September 1995, would, for the first time, identify women's human rights as a critical area of concern. It was her delegation's expectation that significant new ways of implementing those rights would be agreed upon at that Conference.

103. The excellent preliminary report of the Special Rapporteur on violence against women (E/CN.4/1995/42) graphically documented the horror of the violence women faced throughout the world; and pointed to Government inaction, a permissive attitude and a tolerance of the phenomenon as its chief causes. In many parts of the world, violence against women went virtually unnoticed: it was not reported, criminalized or punished. The consequences were fear, vulnerability, dependence and silence. But women were no longer prepared to be intimidated and to remain silent.

104. The practical recommendations made by the Special Rapporteur included a call for violence against women to be reported in full to the relevant United Nations bodies. Henceforth, women's human rights must not be treated as an afterthought in the reports of special rapporteurs and the work of treaty bodies, but must be fully integrated into the mainstream of the Organizations system-wide activity, as proclaimed in the Vienna Declaration.

105. That Declaration also stressed the need for further cooperation and coordination between the Centre for Human Rights and the Commission on the Status of Women. A procedure must be found to enable that Commission to review the many reports prepared by special rapporteurs and working groups of the Commission on Human Rights and to comment upon them, identifying any inadequate gender sensitivities and suggesting ways to protect women's human rights effectively. Similarly, the High Commissioner for Human Rights should review the reports prepared for the Fourth World Conference on Women and report on any inadequacies at the national level.

106. Her delegation welcomed the increased discussion of gender issues in the reports of many thematic mechanisms, and singled out the excellent work done by the Representative of the Secretary-General on internally displaced persons in documenting the appalling threats faced by internally displaced women. Her delegation looked forward to more work of that nature, and believed that special attention must be paid to the exploitation of migrant women, who were particularly vulnerable to violence, threats and blackmail.

107. At its previous session, the Commission had taken a step forward by considering more than 30 resolutions that made specific reference to gender-related issues. The time had come, however, to move beyond discussion to action. Rapporteurs must focus more actively on abuses confronting women. No custom, no local practice or quaint regional particularity could justify the violence women faced throughout the world, or the silence that all too often accompanied it. It must be made absolutely clear that the abuse of women would no longer be tolerated.

108. In that regard, other Governments should join her own in helping to strengthen the capacity of the International Tribunal to prosecute crimes of rape in the territory of the former Yugoslavia. The international community had the forums it needed to talk about the protection of women's human rights. The question was whether it was possible to move beyond words and make universal respect for those rights a reality.

The meeting rose at 6 p.m.

Annex

List of non-governmental organizations sponsoring the statement by
the International Council of Jewish Women, under agenda item 11

International Movement against All Forms of Discrimination and Racism

Movement against Racism and for Friendship among Peoples

World Federation of Democratic Youth

International League for the Rights and Liberation of Peoples

African Association of Education for Development

International Movement for Fraternal Union among Races and Peoples

Pax Christi International

International Association for the Defence of Religious Liberty

All-India Women's Conference

International Committee on European Security and Cooperation

International Federation of University Women

World Union of Catholic Women's Organizations

International Youth and Student Movement for the United Nations

Monta International

International Council of Women

International Alliance of Women

International Federation Terre des Hommes

Centre Europe - Tiers Monde

International Association of Democratic Lawyers

Associated Country Women of the World

World Federation of Methodist Women
